

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

<b>TERA A. McMILLAN,</b>	)	
	)	
	)	<b>Case No: 2:07:CV-01-WKW</b>
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	
	)	
<b>ALABAMA DEPARTMENT OF</b>	)	
<b>YOUTH SERVICES and</b>	)	
<b>MICHAEL J. HARDY,</b>	)	
	)	
<b>Defendants.</b>	)	

**MOTION TO COMPEL PLAINTIFF’S MEDICAL RECORDS OR ALTERNATIVELY  
MOTION FOR CONTEMPT**

The Alabama Department of Youth Services (the “Agency”) requests an order compelling the medical records of Tera McMillan from Bobby J. Dunn, MSW and Lucy Moody of Mead Haven or in the alternative the Agency seeks contempt sanctions against Bobby J. Dunn, MSW and Lucy Moody for failure to respond to a subpoena under Federal Rule of Civil Procedure 45. In support whereof, the undersigned submits the following:

1. The plaintiff has placed her medical and/or psychological well being at issue in this case.
2. The Agency served subpoenas to the above listed medical personnel and/or designee(s) on January 23, 2008 pursuant to Federal Rule of Civil Procedure 45. Please see the attached proof of service and subpoenas. (Exhibit 1).
3. The time period for the medical personnel to file a written objection(s) to the subpoena(s) under Federal Rule of Civil Procedure 45( c) has expired.

4. The medical personnel will not release the medical records of the plaintiff unless the plaintiff consents or unless the court compels the medical personnel to produce the records.

5. Counsel for the Agency mailed a letter and a consent form to the plaintiff's attorney requesting the plaintiff's consent for the Agency to obtain plaintiff's medical records. As of this date the Agency has not received a response from the plaintiff's attorney. (Exhibit 2).

6. As of this date, the Agency has not received a copy of the plaintiff's medical records from the above-mentioned medical personnel.

7. Federal Rule of Civil Procedure 45(e) permits this Court to hold a person in contempt, who has been served with a subpoena, but has failed to obey the subpoena without adequate excuse.

WHEREFORE, the Department of Youth Services requests an order compelling the medical records of Tera McMillan from; Bobby J. Dunn, MSW and Lucy Moody of Mead Haven or in the alternative the Department of Youth Services seeks contempt sanctions for the failure of the medical personnel to obey the subpoena.

Respectfully submitted this 15<sup>th</sup> day of February 2008.

**s/ T. Dudley Perry Jr.**

T. Dudley Perry, Jr.

Bar Number: 3985-R67T

General Counsel

Attorney for the Defendant

Alabama Department of Youth Services

Post Office Box 66

Mt. Meigs, AL 36057

Telephone: (334) 215-3803

Fax: (334) 215-3872

E-Mail: [dudley.perry@dys.alabama.gov](mailto:dudley.perry@dys.alabama.gov)

**s/Sancha E. Teele**

Sancha E. Teele  
Assistant Attorney General  
Bar Number: 0103-H71T  
Attorney for the Defendant  
Alabama Department of Youth Services  
Post Office Box 66  
Mt. Meigs, AL 36057  
Telephone: 334-215-3803  
Fax: (334) 215-3872  
E-Mail: [sancha.teele@dys.alabama.gov](mailto:sancha.teele@dys.alabama.gov)

**CERTIFICATE OF SERVICE**

I hereby certify that on the 15<sup>th</sup> day of February, 2008, I electronically filed the foregoing, MOTION TO COMPEL PLAINTIFF'S MEDICAL RECORDS with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Jimmy Jacobs  
[E-mail:jacobslawoffice@charter.net](mailto:jacobslawoffice@charter.net)  
Attorney At Law  
143 Eastern Boulevard  
Montgomery, AL 36117  
Tel: (334) 215-1788  
Fax: (334) 215-1198

James Eldon Wilson  
Attorney at Law  
4625 Lomac Street  
Montgomery, AL 36106

I hereby certify that on the 15<sup>th</sup> day of February, 2008, I mailed the foregoing MOTION TO COMPEL PLAINTIFF'S MEDICAL RECORDS by U.S. Mail to the following:

Bobby J. Dunn, MSW  
1718 West 2<sup>nd</sup> Street  
Montgomery, AL 36106

Lucy Moody  
Meadhaven  
2105 East South Boulevard  
Montgomery, AL 36116

**s/ T. Dudley Perry Jr.**

T. Dudley Perry, Jr.  
Bar Number: 3985-R67T

General Counsel  
Alabama Department of Youth Services  
Attorney for the Defendants  
143 Eastern Boulevard  
Montgomery, AL 36117  
Tel: (334) 215-1788  
Fax: (334) 215-1198

**s/ T. Dudley Perry Jr.**  
T. Dudley Perry, Jr.  
Bar Number: 3985-R67T  
Deputy Attorney General  
Attorney for the Defendants

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

**TERA A. McMILLAN,**

**Plaintiff,**

**vs.**

**ALABAMA DEPARTMENT OF  
YOUTH SERVICES and  
MICHAEL J. HARDY,**

**Defendants.**

**Case No: 2:07:CV-01-WKW**

**SUBPOENA DUCES TECUM**

To: Bobby J. Dunn, MSW  
1718 West 2<sup>nd</sup> Street  
Montgomery, AL 36106

**YOU ARE HEREBY REQUIRED** to produce to the Alabama Department of Youth Services, Legal Division, located at 1000 Industrial School Road, Washington Hall, Suite 200, Mt. Meigs, Alabama 36057, the following information:

1. Any and all medical records, including but not limited to, any and all reports, notes, tests, test results, diagnoses, prognoses, office records, clinic records, therapy records, and correspondence pertaining to Tera McMillian, date of birth, 1/12/1973.
2. Any other such record in the possession, custody or control of the said witness, and every such record to which the witness may have access, pertaining to Tera McMillian, Date of birth, 1/12/1973.

**EXHIBIT**

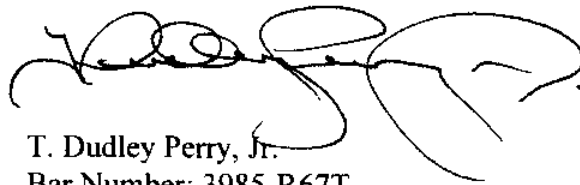
**1**

You are required to produce to the Legal Division the medical records for Tera McMillian which covers the time frame of 2003 - present. The records are to be produced no later than close of business (4:30 p.m.) on February 1, 2008.

This subpoena is issued pursuant to Federal Rule of Civil Procedure 45 and said subpoena will remain from time to time until discharged according to law.

Done this 17<sup>th</sup> day of January, 2008.

TROY KING  
ATTORNEY GENERAL

A handwritten signature in black ink, appearing to read 'T. Dudley Perry, Jr.', with a large, stylized flourish extending to the right.

T. Dudley Perry, Jr.  
Bar Number: 3985-R67T  
General Counsel  
Attorney for the Defendant  
Alabama Department of Youth Services  
Post Office Box 66  
Mt. Meigs, AL 36057  
Telephone: (334) 215-3803  
Fax: (334) 215-3872  
E-Mail: [dudley.perry@dys.alabama.gov](mailto:dudley.perry@dys.alabama.gov)

## NOTICE OF LEGAL SERVICE

I CERTIFY THAT I HAVE PERSONALLY RECEIVED THE BELOW DESCRIBED LEGAL DOCUMENT.

Subpoena Duces Tecum

Case No. 2:07:CV-01-WKW

Tera A. McMillan v. Alabama Department of Youth Services and Michael J. Hardy

TO: Bobby J. Dunn, MSW  
1718 West 2<sup>nd</sup> Street  
Montgomery, AL 36106

1/23/08  
DATE

  
SIGNATURE OF PERSON SERVED

I CERTIFY THAT I PERSONALLY SERVED A COPY OF THE ABOVE DESCRIBED LEGAL DOCUMENTS TO:

B. J. Dunn.  
NAME OF PERSON SERVED

1/23/08  
DATE

  
ALAN STATON, SPECIAL INVESTIGATOR

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

**TERA A. McMILLAN,**

**Plaintiff,**

**vs.**

**ALABAMA DEPARTMENT OF  
YOUTH SERVICES and  
MICHAEL J. HARDY,**

**Defendants.**

**Case No: 2:07:CV-01-WKW**

**SUBPOENA DUCES TECUM**

To: Lucy Moody  
Meadhaven  
2105 East South Boulevard  
Montgomery, AL 36116

**YOU ARE HEREBY REQUIRED** to produce to the Alabama Department of Youth Services, Legal Division, located at 1000 Industrial School Road, Washington Hall, Suite 200, Mt. Meigs, Alabama 36057, the following information:

1. Any and all medical records, including but not limited to, any and all reports, notes, tests, test results, diagnoses, prognoses, office records, clinic records, therapy records, and correspondence pertaining to Tera McMillian, Date of birth, 1/12/1973.
2. Any other such record in the possession, custody or control of the said witness, and every such record to which the witness may have access, pertaining to Tera McMillian, Date of birth, 1/12/1973.

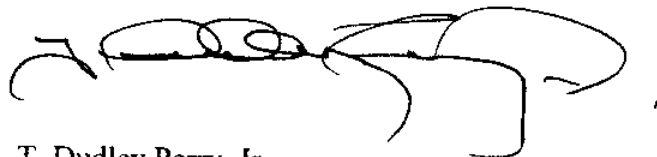


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Done this 17<sup>th</sup> day of January, 2008.

TROY KING  
ATTORNEY GENERAL

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T. Dudley Perry, Jr.  
Bar Number: 3985-R67T  
General Counsel  
Attorney for the Defendant  
Alabama Department of Youth Services  
Post Office Box 66  
Mt. Meigs, AL 36057  
Telephone: (334) 215-3803  
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E-Mail: [dudley.perry@dys.alabama.gov](mailto:dudley.perry@dys.alabama.gov)

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Subpoena Duces Tecum

Case No. 2:07:CV-01-WKW

Tera A. McMillan v. Alabama Department of Youth Services and Michael J. Hardy

TO: Lucy Moody  
Meadhaven  
2105 East South Boulevard  
Montgomery, AL 36106

1.23.08  
DATE

Lucy Moody  
SIGNATURE OF PERSON SERVED

I CERTIFY THAT I PERSONALLY SERVED A COPY OF THE ABOVE DESCRIBED LEGAL DOCUMENTS TO:

Lucy Moody  
NAME OF PERSON SERVED

1/23/08  
DATE

Alan Staton  
ALAN STATON, SPECIAL INVESTIGATOR

STATE OF ALABAMA  
**DEPARTMENT OF YOUTH SERVICES**

BOB RILEY  
GOVERNOR

POST OFFICE BOX 66  
MT. MEIGS, ALABAMA 36057

J. WALTER WOOD, JR.  
EXECUTIVE DIRECTOR

February 4, 2008

Jimmy Jacobs  
4137 Carmichael Road, Suite 100  
Montgomery, AL 36106

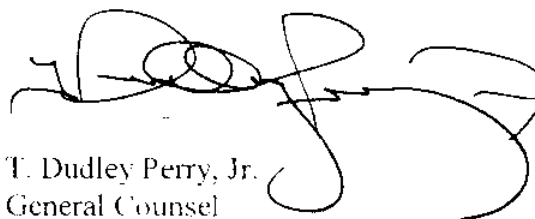
RE: Tera McMillan v. Alabama Department of Youth Services, et. al.,  
Case No: 2:07-cv-00001

Dear Jimmy:

The Department of Youth Services, was unaware that your client, Ms. McMillan, may have received medical treatment in reference to this case until we conducted depositions last month. After we learned this information, the Department of Youth Services subpoenaed Ms. McMillan's medical records from medical doctors that she identified during depositions.

Some of the doctors will not release Ms. McMillan's medical records without the written consent of Ms. McMillan. Enclosed herewith is a release from your client for those records. Please have Ms. McMillan execute the release. If you have any questions concerning this matter please do not hesitate to contact me.

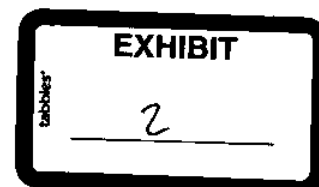
Sincerely,



T. Dudley Perry, Jr.  
General Counsel

TDPIr/sbw/pic

Enclosure



### Authorization for Release of Information

<b>Tera McMillian</b>	<b>423-02-8114</b>	<b>January 12, 1973</b>
Patient's Name	Social Security Number	Date of Birth

Address	City	State	Zip	Telephone (Home)
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I hereby authorize the release of information contained in the above patient's medical record, including record, if any, containing privileged psychiatric confidential information and records, if any, for treatment of physical and/or mental illness, treatment of chemical dependency and/or alcohol abuse, or testing or treatment of any communicable or infectious disease, such as Acquired Immunodeficiency Syndrome virus (AIDS), Venereal Disease, Tuberculosis, or Hepatitis. I authorize such release to the person or organization listed below and under the condition and for the purpose as stated below

1. Name of Person (s) and or organizations (s) and addresses to whom disclosure is to be made.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

2. Reason for Disclosure \_\_\_\_\_

Date \_\_\_\_\_

Signature \_\_\_\_\_